Appendix A

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United States Court of Appeals
Tenth Circuit

Nos. 8723, 8778, 8808 and 8829
March Term, 1967

Phillips Petroleum Company; Union Oil Company of California; Gulf Oil Corporation; and Mobil Oil Corporation,
Petitioners,

v.

Federal Power Commission,
Respondent,

Pacific Gas and Electric Company; Southern California Gas Company and Southern Counties Gas Company of California; San Diego Gas & Electric Company; The People of the State of California and The Public Utilities Commission of the State of California; and The State of Texas,
Intervenors.

ON PETITIONS FOR REVIEW OF ORDERS OF THE FEDERAL POWER COMMISSION

PER CURIAM.

The petitions by independent producers of natural gas seek review of Federal Power Commission Opinion No.

484 and accompanying orders. These relate to § 7 applications for certificates of public convenience and necessity covering jurisdictional sales of natural gas produced from various fields located within the Permian Basin. By its Opinions Nos. 468 and 468-A the Commission fixed area rates for Permian Basin gas. In the instant proceedings, the Commission held that the area rates established by it in Permian were the in-line rates for certification under § 7. The petitioners offered evidence to show that the area rates were not properly applicable and the Commission rejected the offer. It also declined to receive evidence pertaining to the effective date of a contract between petitioner Mobil Oil Corporation and El Paso Natural Gas Company.[1]

In Skelly Oil Company, et al. v. Federal Power Commission, 10 Cir., ... F.2d ....., we granted all petitions for review which attacked the Commission's Permian decision and remanded all cases for further proceedings consistent with our opinion. The cases at bar were briefed before that opinion was rendered. Phillips says in its brief: "To the extent that *Permian* is altered upon judicial review, the instant decision must reflect the result of *Permian*." None of the other petitioners are so explicit. The Commission agrees with Phillips.[2] We declined to accept the Commission's Permian rates because they had not been measured against the end result test announced in Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, and, on the record presented to us, could not be so measured.

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1. This is pertinent because of the Commission's January 1, 1961, date of division between new and old gas-well gas.

2. The statement in the Commission brief is: "We agree with petitioners (Phillips Br. pp. 5-6) that if this Court were to conclude in reviewing the area rate decision in *Skelly* that the prescription of producer rates on an area basis were unlawful or that either the rate or moratorium provisions there require a modification, a remand would be required here."

In the circumstances, we see no good purpose that will be served by a discussion of, or decision on, any of the points raised herein by any party. At the moment they are hypothetical so far as we are concerned. The Commission's action now before us for review is based on its Permian rates. We have not accepted those rates. The elimination of the base eliminates all rates predicated thereon.

We are told that certiorari applications to review our Permian decision will be filed soon in the United States Supreme Court. When area rates for the Permian Basin receive final judicial approval, the issues presented here will be ripe for decision. If we were to decide them now, we would be rendering an advisory opinion. We now decide only that the rates fixed by Opinion No. 484 and accompanying orders are disapproved because they are based entirely on the Permian area rates which we have rejected.

The petitions for review are severally granted and the cases are all remanded to the Commission for further proceedings consistent with this opinion.

Appendix B

United States Court of Appeals
for the Tenth Circuit

TWENTY-THIRD DAY, MARCH TERM,
TUESDAY, APRIL 18th, 1967.

* * * *

Before Honorable David T. Lewis, Honorable Jean S. Breitenstein and Honorable Delmas C. Hill, Circuit Judges.

Phillips Petroleum Company,
Petitioner,

8723 vs.

Federal Power Commission,
Respondent.

Pacific Gas and Electric Company, Southern California Gas Company and Southern Counties Gas Company of California, San Diego Gas & Electric Company, The People of the State of California and The Public Utilities Commission of the State of California, and The State of Texas,
Intervenors.

On Petition for Review of Orders of the Federal Power Commission.

This cause came on to be heard on petition to review orders of the Federal Power Commission and was argued by counsel.

On consideration whereof, it is ordered by this court that the petition for review is granted and the case is remanded to the Federal Power Commission for further proceedings consistent with the opinion.

Union Oil Company of California,
Petitioner,

8778 vs.

Federal Power Commission,
Respondent,

Pacific Gas and Electric Company, Southern California Gas Company and Southern Counties Gas Company of California, San Diego Gas & Electric Company, The People of the State of California and The Public Utilities Commission of the State of California, and The State of Texas,
Intervenors.

On Petition for Review of Orders of the Federal Power Commission.

This cause came on to be heard on petition to review orders of the Federal Power Commission and was argued by counsel.

On consideration whereof, it is ordered by this court that the petition for review is granted and the case is remanded to the Federal Power Commission for further proceedings consistent with the opinion.

Gulf Oil Corporation,
Petitioner,

8808 vs.

Federal Power Commission,
Respondent,

Pacific Gas and Electric Company, Southern California Gas Company and Southern Counties Gas Company of California, San Diego Gas & Electric Company, The People of the State of California and The Public Utilities Commission of the State of California, and The State of Texas,
Intervenors.

On Petition for Review of Orders of the Federal Power Commission.

This cause came on to be heard on petition to review orders of the Federal Power Commission and was argued by counsel.

On consideration whereof, it is ordered by this court that the petition for review is granted and the case is remanded to the Federal Power Commission for further proceedings consistent with the opinion.

Mobil Oil Corporation,
Petitioner,

8829 vs.

Federal Power Commission,
Respondent.

Pacific Gas and Electric Company, Southern California Gas Company and Southern Counties Gas Company of California, San Diego Gas & Electric Company, The People of the State of California and The Public Utilities Commission of the State of California, and The State of Texas,
Intervenors.

On Petition for Review of Orders of the Federal Power Commission.

This cause came on to be heard on petition to review orders of the Federal Power Commission and was argued by counsel.

On consideration whereof, it is ordered by this court that the petition for review is granted and the case is remanded to the Federal Power Commission for further proceedings consistent with the opinion.